

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION  
No. 5:19-CV-00430-BO

U.S. TOBACCO COOPERATIVE, INC., )  
)  
)  
)  
v. )  
)  
)  
CERTAIN UNDERWRITERS AT )  
LLOYD'S SUBSCRIBING TO POLICY )  
NUMBERS B1353DC1703690000 AND )  
B1353DC1602041000 )

**DECLARATION OF  
DARREN STEWART**

Andrew McGarry, on oath, declares as follows:

1. I am the Energy, Marine & Engineering Claims Manager at the Canopus Syndicate 4444 ("Canopus") at Lloyd's of London. I have held this position for 1 year and have worked in the London insurance market for 10 years.

2. Canopus is a claims agreement party on the policy for the 2016 year of account (policy number B1353DC1602041000) and the policy for the 2017 year of account (policy number B1353DC1703690000). The overall lead for the 2016 year and for the 2017 year is AEGIS (Lloyd's Syndicate 1225).

3. Whilst Canopus is a claims agreement party and shares claims handling responsibility with the lead Underwriters, Canopus were not made aware until on or about June 23, 2021 of the matters set out below which were advised to us by the lead Underwriters for our placement being:

(a) Lead Underwriters had become concerned about the lack of reporting from Mr. James Saville of Hill Rivkins LLP ("Hill Rivkins"), who had been instructed to represent all Underwriters in the proceedings.

- (b) On or about June 17, 2021, lead Underwriters had made contact with Kennedys Law LLP (“Kennedys”) and requested that Kennedys contact Mr Saville in order to obtain a second opinion on the status of the proceedings.
- (c) Mr. Michael Tricarico of Kennedys’ New York office had conducted searches of the court docket for these proceedings and located and provided to lead Underwriters a number of orders and motions of which lead Underwriters were completely unaware and in respect of which Underwriters were in breach.
- (d) As a result, lead Underwriters had formally dis-instructed Hill Rivkins.

4. I understand that on June 25, 2021, Kennedys filed a Motion for an Extension of Time in order for Underwriters to respond to the motion for sanctions that they are presently responding to, and that the Court granted that motion. Canopus wishes to thank the Court for the opportunity to address the sanctions motion.

5. Prior to June 23, 2021, I had not seen or been informed of any of the Court’s orders. I was not aware that Underwriters had breached any orders made by the Court, nor was I aware that the Plaintiff was seeking sanctions.

6. Canopus has previously provided discovery in this proceeding. I was unaware of any outstanding requests for discovery or interrogatories from Canopus.

7. As previously indicated, I only became aware of the outstanding issues on or about June 23, 2021, when we received a market wide notification from the lead Underwriters on our placement. I had received no notice about any outstanding discovery or interrogatory requests or court orders.

8. Now that we have been informed of what needs to be done pursuant to Court’s orders, we are diligently working to comply as quickly as we can. However, this has been a time-consuming process due to the amount of documentation to be collated and provided, particularly in relation to other mold and bad faith claims over the last 10 years across various classes of business. This exercise has required an extensive digital and manual search effort across thousands of claim files and multiple systems we use to monitor, appropriately record and handle claims to the highest Professional and regulatory

standards. This exercise has been particularly difficult considering the wide scope of the discovery and it not being limited to this claim or a similar type of Insurance business. It has taken considerable resource and time to appropriately set up the exercise internally, run it and produce the results to our lawyers.

9. I wish to apologize to the parties and to the Court for the lack of response on our part due to the reasons discussed above, and at the same time, reiterate that we are working diligently to provide the discovery ordered by the Court.

10. I declare under penalty of perjury that the foregoing is true and correct.

Executed on July 23, 2021.

  
\_\_\_\_\_  
DARREN STEWART